



Ministry of Housing,
Communities &
Local Government

Strengthening consumer redress in the housing market

A Consultation



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Scope of the consultation

Topic of this consultation	This consultation seeks views on options for improving consumer redress in housing.
Scope of this consultation:	This consultation seeks views on the redress landscape in housing. It looks at improvements to existing services, filling gaps in redress, and the potential to reconfigure services in the future to better serve consumers.
Geographical scope:	The policy proposals primarily relate to England. The UK Government will be discussing these issues with devolved administrations where existing legislation also has scope outside England.
Impact Assessment:	The purpose of the consultation is to gather evidence and seek views on improving redress in housing. Any policy changes brought forward as a result of the consultation would be subject to appropriate assessment.

Basic Information

Duration:	This consultation will last for eight weeks from 18 February 2018 to 16 April 2018.
How to respond:	<p>We encourage you to respond by completing an online survey at: https://www.surveymonkey.co.uk/r/Housingredress</p> <p>Alternatively you can email your response to the questions in this consultation to – Housingredress@communities.gsi.gov.uk</p> <p>Written responses should be sent to: Social Housing Division Ministry of Housing, Communities and Local Government Third Floor – Fry Building 2 Marsham Street London SW1P 4DF</p> <p>When you reply it would be very useful if you confirm whether you are replying as an individual or submitting an official response on behalf of an organisation and include:</p> <ul style="list-style-type: none"> - your name, - your position (if applicable), - the name of your organisation (if applicable), - an address (including post-code), - an email address, and - a contact telephone number

Ministerial Foreword

Our broken housing market is one of the greatest barriers to progress in Britain today. We have already set out comprehensive plans to build more homes – and have begun to see progress, with the biggest increase in the number of new homes for almost a decade last year.¹

But fixing the market is about more than building more homes. We know that for many households – whether tenants or owners – their home can be a source of stress. Repairs that never get sorted. Neglected communal spaces. The frustration and hassle of slow and costly sales processes.

Having a roof over your head is not a luxury, and moving home is not always an easy option when problems occur. That's why it's so important that consumers have swift, effective routes to complain when things go wrong; that they know where to go, and are clear about what they can expect.

The current landscape does not support this. There's not one redress scheme but many and each operate different practices. Even this array of schemes does not entirely cover the issues that consumers might encounter. Too many people have no option but to take a grievance through the courts.

Ultimately, I want to simplify the process so that people have a clearer and simpler route to redress. That's why I am consulting on options for streamlining redress services, including considering whether the answer might be a single housing ombudsman service: a single, transparent and accountable body with a remit that covers the whole of the housing sector.

In the meantime there are also steps we can take to improve redress across the market. This isn't just about improving consumers' experience of making a complaint. It's also about the role of redress schemes in driving service improvements to ensure that issues are not just fixed, but learnt from.

With your help we can ensure that households up and down the country get the homes they deserve.



The Rt Hon Sajid Javid MP

Secretary of State for Housing, Communities and Local Government.

¹ MHCLG Live table 120 <https://www.gov.uk/government/statistical-data-sets/live-tables-on-net-supply-of-housing>

1. Introduction

1. The Government has already taken a number of steps to reform redress and regulation in the housing market. Our calls for evidence on the home-buying process and on improving consumer experiences of lettings and managing agents both touched on these issues.
2. This consultation looks at the issue of redress in the housing market in more depth. It considers:
 - how the current redress landscape works [Chapter 2];
 - improving 'in-house' complaint processes, to ensure that issues get resolved as quickly as possible [Chapter 3];
 - the practices and functions that should be expected of redress schemes and the powers that they need to do this [Chapter 4];
 - how to fill existing gaps in redress, with a particular focus on private tenants, buyers of new build homes and leaseholders [Chapter 5];
 - the case for streamlining and improving services for consumers through the creation of a single housing ombudsman service [Chapter 6].
3. Following the tragedy at Grenfell Tower last year, the Prime Minister announced a Public Inquiry which is already underway. It will consider the arrangements made by the local authority and other responsible bodies for receiving information relating to the risk of fire at Grenfell Tower and the action taken. We will also be considering the specific issues experienced by social housing tenants in our Social Housing Green Paper, to be published later this year.
4. Additionally, the Independent Review of Building Regulations and Fire Safety, led by Dame Judith Hackitt, will make recommendations aimed at achieving a sufficiently robust regulatory system for the future and providing further assurance to residents that the buildings they live in are safe.
5. Housing issues that are dealt with by redress schemes in other sectors, such as the Financial Ombudsman Service and Legal Ombudsman, are not in scope of this consultation and the remit of these bodies will remain unaffected.
6. Annex A provides a glossary of relevant terms used in this document.
7. Responses should be submitted no later than midnight on 16 April 2018. We encourage respondents to use the online survey available at:
<https://www.surveymonkey.co.uk/r/Housingredress>
8. If you wish to provide a written response, the full list of consultation questions can be found in Chapter 7 and these can also be emailed to:
Housingredress@communities.gsi.gov.uk or sent to:

Social Housing Division
Ministry of Housing, Communities and Local Government
Third Floor – Fry Building
2 Marsham Street
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2. How things work now

9. When things go wrong with someone's home or housing services, we would expect most people to raise a complaint directly – whether with an estate or lettings agent, a landlord, a local authority, a developer or a managing agent.
10. When someone is unsure of their rights or how to exercise them, many people will seek an independent source of advice. There are a number of services across different parts of the market, both local and national, that currently exist to provide independent advice for consumers. If effective, these can help consumers have a better understanding of their rights and responsibilities, as well as their options for taking complaints further. Some are focussed on particular sectors, for example LEASE which exists to offer free initial legal advice on leasehold, while others offer advice across different sectors, for example Shelter and Citizens Advice.
11. Where consumers are unable to resolve their issue directly, the next step can be to seek independent redress. Redress can come in different forms, including through ombudsmen, but regardless of the type all provide a means to get an issue heard again once they have exhausted an organisation's internal complaints process. Redress schemes can investigate, mediate, and make decisions about how to put things right, sometimes through a financial award. Some schemes are statutory, some are underpinned by statute and some are entirely voluntary. The range of current redress services in housing, including the existing ombudsmen, is set out below.
 - **Tenants of social landlords** can take a complaint to the Housing Ombudsman for investigation, either eight weeks after the end of their landlord's internal complaints procedure or via a designated person (an MP, local councillor or designated tenant panel). The Ombudsman's determination may include recommendations for action and/or a financial remedy (compensation). If the Ombudsman identifies possible significant systemic issues they can refer the case to the Regulator of Social Housing who can take action if there is evidence of a breach of its consumer standards and there has been, or is a risk of, 'serious detriment' to tenants. Where complaints are made directly to the Regulator (where action is not taken), the Regulator will signpost complainants to the Housing Ombudsman. In 2016/17, the Housing Ombudsman received over 15,000 enquiries and complaints, of which 34% were about repairs and 10% concerned tenant behaviour.²
 - **People applying for social housing or for help with homelessness** and who have been through local authority complaints can take a complaint to the Local Government and Social Care Ombudsman. If the Ombudsman finds fault in the way the application was dealt with they can ask the local authority to put the matter right. For example, the local authority may look at an application again or provide a homeless person with accommodation while their application is being considered. The Ombudsman does not have the power to demand that an authority follows its recommendations, but they are nearly always complied with.

² The Housing Ombudsman - [Annual Report and Accounts](#) - 2016-17

- **Customers of letting and managing agents** in the rented and leasehold sectors can take a complaint to one of three redress schemes: the Property Ombudsman, the Property Redress scheme or Ombudsman Services: Property. The last of these announced recently that it proposes to end its current arrangements in the property redress market in recognition of the need to streamline service provision and reduce consumer detriment. Ombudsman Services: Property will continue to provide redress services to current members and their tenants until 6 August 2018 and will continue its enquiries function until the end of 2018. It is therefore appropriate to treat them as continuing to operate in the private sector for the purposes of this consultation. There is a gap in redress for leaseholders where their freeholder does not employ a property agent: in such circumstances, the freeholder is not required to sign up to a redress scheme.
- **Customers of estate agents**, whether they are buyers or sellers, can currently take a complaint to one of the same three schemes that cover letting and managing agents. Where a redress scheme thinks an estate agent may be unfit for the role under the Estate Agents Act 1979 due to, for instance, fraud or discrimination, they can refer a case for investigation to the lead enforcement agency. This function is delivered by the National Trading Standards Estate Agency Team, who can issue banning or warning orders against estate agents, individually or as a business. The team is also responsible for approving and monitoring redress schemes for estate agents.
- **Tenants of private landlords** might not have access to any redress scheme. A small number of private landlords have chosen to join the Housing Ombudsman scheme or one of the three private redress schemes, and some tenants will have access to redress because their landlord uses an agent. However landlords are not required to belong to a redress scheme where they provide services directly to tenants. In October last year the Government committed to requiring landlords in the private rented sector to join a redress scheme to fill this gap.
- **Park home residents** currently have no access to a redress scheme. They will have a written agreement with their site owner, which sets out the contractual obligations of both parties, but if the site owner fails to meet their obligations the resident has little recourse to redress except via the first-tier tribunal. Only specific complaints around health and safety conditions or harassment, which are not dealt with satisfactorily by the local authority, can be taken to the Local Government and Social Care Ombudsman.
- The majority of **buyers of new build homes** are covered by an industry led consumer code or warranty scheme which can offer resolution where things go wrong, but these do not always cover all issues. Warranty schemes consist of two parts: for the first two years it remains the responsibility of the housebuilder to put right any damage or defects. What problems a code will consider, and the forms of redress and the sanctions that the codes have, will differ. For example not all codes may cover snagging issues. Where consumers experience non-structural, snagging problems they can contact their warranty provider if the house builder fails to resolve them. However, if the homeowner disagrees with a decision by the warranty provider, or no action is taken, the consumer can find they have no route to redress. After the second year, the warranty provides insurance to cover against the cost of repair, although these also differ in their level and scope of cover. Where consumers experience issues with the

warranty provider they can seek redress from the Financial Ombudsman Service. Where a problem relates to the reservation and sales process, in the majority of cases consumers can approach an industry-led consumer code and seek redress through them.

12. The Consumer Protection from Unfair Trading Regulations 2008 provides consumers with rights to redress if they've faced misleading actions or aggressive selling practices by traders. For example, in the housing sector, this could include misleading adverts for properties advertised by letting agents. The regulations are enforced by Local Authority Trading Standards Services.
13. The Government are concerned that the current landscape is confusing for consumers both in terms of the number of schemes, differences in practices, and gaps where consumers have no recourse to redress. We want to use these questions to understand the consumer experience of redress schemes.

Consultation Questions

Questions 1 – 3 can be found in chapter 7.

Q4: Have you ever made a complaint relating to the renting, selling or purchasing of your property, or relating to the management or maintenance of a property in which you are a renter or leaseholder?

- Yes
- No, but I know how to make a complaint.
- No, and I do not know how to make a complaint.

If no move to question 9

Q5: If you have complained about the renting, management, selling or purchasing of your property, who did you complain to? (Tick all that apply)

- Estate Agent
- Managing Agent (Leasehold)
- Letting Agent
- Landlord
- Freeholder
- Developer
- Redress scheme
- Charity (e.g. Citizens Advice, Shelter)
- Politician – local or national
- Other [please list]

Q6: Have you used any of the following housing redress schemes (as a consumer or organisation) in the past five years? (tick the one that you used most recently) If not move to question 9

- The Housing Ombudsman
- The Property Ombudsman
- Ombudsman Services: Property
- The Property Redress Scheme
- The Consumer Code (Independent Dispute Resolution Service)
- Local Government and Social Care Ombudsman (only regarding its housing-related functions)
- Other [Please Identify]

Q7: If you answered Q6, how would you rate the service that you received out of 10? (With 1 being very poor and 10 being exceptional) Please give details – for example how helpful was the organisation at resolving the problem.

Q8: What do you consider to be the main problem with redress in the housing market, if any (tick up to three):

- There is no problem
- It is not clear how to raise a complaint
- It is not clear who to raise a complaint with
- There are gaps in redress
- Schemes are inconsistent in the way that they handle complaints
- It takes too long to get a decision or a complaint resolved
- It is expensive
- Complaints are not handled fairly
- Not everyone has the same access to redress
- When decisions are made they are not enforced
- Worried about the consequences of complaining
- Overlap between schemes
- Other [please explain]

Q9: Which solutions below do you think would best improve redress in the housing sector (please pick up to three)

- Better awareness from consumers of how to raise complaints
- Improvements to the working of existing redress schemes e.g. more timely complaint handling
- Better enforcement of redress scheme decisions
- Schemes all operating to the same criteria/standards
- A code of practice for all housing providers (e.g. landlords, agents, housing associations, developers) on complaints handling
- Streamlined redress provision in housing (see question 30)
- Other [please explain]

3. Improving ‘in house’ complaints handling

14. There are a number of good reasons to look at ways to support in-house resolution of complaints through ensuring effective provider complaint handling services. Where complaints can be dealt with locally this could ease any pressure on redress services, reducing complexity and waiting times, resulting in a more satisfactory experience. Effective complaint handling processes can also help organisations improve services, providing insight on where there are issues and how these might be addressed. Effective learning from complaints could also potentially help address any wider systemic issues within the sector.
15. Some redress schemes already play a part in providing advice, guidance and learning on effective complaint handling. For example, the Housing Ombudsman has provided discussion workshops, training events and assisted in induction programmes to facilitate effective dispute resolution at a local level for landlords, while the Local Government and Social Care Ombudsman offers training courses for councils on effective complaint handling. In the private sector, all three schemes publish case studies to help prevent problems that result in complaints occurring and refer to industry codes and guidance in their decision making. Redress schemes can also issue guidance on best practice procedures, including setting out how long complainants should wait before escalating to a redress scheme.
16. We want to hear views on what more can be done to improve in-house complaint handling.

Consultation Questions

Q10: Could more be done to improve in house complaint handling for housing consumers?

- Yes [please explain]
- No
- Not sure

4. Practices and Powers

17. Where complaints cannot be resolved directly, redress schemes can provide another route to achieving this. Inevitably as each redress scheme has developed independently, there are differences in how they operate.

18. In this section we explore some examples of different practices. We want to hear your views on what standards should apply to existing housing redress schemes and any future service as set out in Chapter 6.

Accessibility

19. A number of factors can help or hinder consumers from accessing redress. Across the schemes there are different practices relating to whether consumers pay a fee for their service, when schemes will consider a case and steps that can be taken to support consumers' awareness. For example:

- While most redress schemes provide a free service to the consumer, this is not the case for some. For new build home owners the Consumer Code Independent Dispute Resolution Scheme fee to consumers is £100 plus VAT to log a complaint.
- Most redress schemes will consider a complaint once a provider's complaint procedure has been exhausted. However, where provider complaint processes are protracted this could act as a barrier to consumers accessing redress. Some ombudsmen have put a maximum time limit on this. For example, the Local Government and Social Care Ombudsman will generally consider a complaint if 12 weeks have passed from the initial complaint being made, unless other statutory time limits exist, or earlier in some exceptional cases³.
- Some ombudsmen require that a complaint is submitted within a certain time of the issue occurring. For example the Property Ombudsman says that a complaint should be submitted within 12 months of exhausting the agent's in house complaint proceedings. Complaints to the Property Redress Scheme must be made no later than six months after the complainant's final communication with the other party.
- Under the Consumer Rights Act 2015, all letting agents are required to display the name of their redress scheme prominently in their offices and on their website and can be fined up to £5,000 if they do not do so.

20. We want to understand how redress schemes can best support consumers to access them.

³ The Local Government and Social Care Ombudsman can and does consider complaints earlier than 12 weeks if it is clear there is little to be gained by further attempts at local resolution.

Timeliness

21. Everyone wants complaints resolved quickly, but we know that in practice, there can be variation in the time taken to reach a decision.⁴ This is even the case amongst approved alternative dispute resolution bodies that must provide their decision to relevant parties within 90 days from the date upon which the complaint was received unless it is a highly complex dispute.⁵ In an increasingly digital age, we want to understand through this consultation the appropriate time for determining and investigating a complaint.

Data and transparency

22. Effective use of data can be an important tool in driving up service standards, helping to inform consumer choice and the activity of regulators and providers. Publishing can also help support enforcement activity. Many redress schemes make information available. For example:

- The Local Government and Social Care Ombudsman publishes its decision statements on their website three months after the date the decision is taken, unless it is not in the complainant's best interests to do so or anonymity may be compromised. It also publishes an annual letter to councils providing them with a summary of complaint statistics about their authority and feedback on learning points to prevent future problems. In addition the Ombudsman publishes thematic reports highlighting common issues from its casework which also contain good practice advice and suggested questions to support local scrutiny of services.
- The Property Ombudsman, Ombudsman Services: Property and the Property Redress Scheme publish the names of any agents that have been expelled from their schemes and their Memorandum of Understanding prevents any agents with an outstanding award from joining a different scheme. The schemes provide the Ministry of Housing, Communities and Local Government with monthly complaints statistics and publish annual reports summarising this information.

23. We are seeking views in this consultation on whether there should be common practices around transparency among redress schemes and what those practices should be.

Codes of practice

24. Some redress schemes also use codes of practice as a means of setting out what is expected of providers so that both sides are clear. This can help support compliance, and drive wider service improvements. The Property Ombudsman operates Codes of

⁴ Which? "[Is the home buying process working for consumers?](#)"

⁵ CTSI Requirements and Guidance on seeking approval as a [Consumer ADR Body operating in non regulated sectors. Schedule 3:6 \(d\)](#)

Practice for its members, but they are voluntary. The Codes⁶ have been approved by the Chartered Trading Standards Institute's Consumer Codes Approval Scheme and provide a benchmark to help ensure a consistent service for consumers. Ombudsman Services: Property and the Property Redress Scheme use industry codes and guidance. Additionally, the Consumer Code for Housebuilders also sets out high level expectations which providers are assessed against. We want to understand the role of codes of practice in potentially driving more effective redress systems.

Powers and enforcement

25. When a complaint is resolved there are a number of awards that can be made by different redress schemes, and variations in the level of compensation. In the social housing sector, the Housing Ombudsman has powers to make orders or recommendations including that the provider apologise, pay compensation, perform any contractual or other obligations and undertake or refrain from undertaking works. In 2016-17, the Housing Ombudsman made an order of compensation in around a third of determinations. The level of financial compensation awarded ranged from £20 to £8,195.⁷
26. The three property schemes can require an apology, an explanation of what went wrong, a practical correction of the problem or a financial award. The most common financial awards in 2016-17 across the schemes were between £50 and £500.
27. Where a letting or managing agent does not comply with the terms of a decision by one of the three property redress schemes, the scheme cannot force them to comply, but may expel them from the scheme (and, under the Memorandum of Understanding between the three schemes, deny them membership of the other two schemes) until they comply. Letting and managing agents can be fined up to £5,000 by a local authority for operating without belonging to a redress scheme whereas estate agents are subject to a fine of £1,000. Non-compliant estate agents can be referred to the National Trading Standards Estate Agency Team who has the power to ban individuals from estate agent work if they are not part of a redress scheme. However, there is no equivalent body for letting and managing agents and consumers may need to pursue their case through the courts.
28. In sectors where there is a regulatory agency in place, the working relationship between an ombudsman and a regulator can influence the effectiveness of the redress scheme in getting results. The Housing Ombudsman has the power to report the provider to the Regulator of Social Housing if the provider fails to comply with its determination. There is a Memorandum of Understanding between the Housing Ombudsman and the Regulator of Social Housing to ensure effective co-operation and communication between the two bodies.
29. We want to use this consultation to test what type and level of sanctions and awards a redress scheme should be able to deliver and their powers of enforcement.

⁶ [Codes for Residential Estate Agents and Residential Letting Agents](#)

⁷ The Housing Ombudsman - [Annual Report and Accounts](#) - 2016-17

Consultation Questions

Q11: Are there common practices that housing consumers and businesses should be able to expect from a redress scheme, or do different sectors in housing require different practices?

- Yes - there should be common practices for consumers
- No – different sectors require different practices
- Not sure

Q12: If you believe there should be common practices that consumers should be able to expect from a housing redress scheme, what should they include? (pick as many as relevant)

- Rules relating to the types of issues consumers can complain about
- Rules relating to the timeframe in which consumers can complain to a provider
- Policies to support awareness raising
- Timeliness of complaint handling
- Cost to consumers
- Compensation levels
- Codes of practice specific to the sector
- Cost to members/ payment structures
- Transparency of decisions
- All apply
- Other [please explain]

Q13: Do you think that a redress scheme should publish decisions and the number of complaints relating to different providers? Please explain why.

- Yes
- No
- Not sure

Q14: What is a reasonable time frame for a redress scheme to deal with a complaint?

- Less than 2 weeks
- More than 2 weeks but less than a month
- More than a month but less than six weeks
- More than six weeks but less than two months

- More than two months but less than three months
- 3-6 months
- 7-12 months
- More than 12 months
- It depends on the complexity of the case

Q15: How should a redress scheme support consumers to access its scheme?

Q16: What kind of sanctions should a redress scheme have access to? (tick all that apply)

- Financial award up to £25,000
- Financial award greater than £25,000
- Expulsion from scheme
- Power to make decisions binding
- Referral to enforcement agent/ regulators
- A range of options depending on the type and size of provider
- Other [please list]

5. Addressing the gaps

30. We want to understand where there are gaps in current provision, the best way of addressing those gaps, and how far these could be filled by existing statutory, voluntary or sector-led organisations or initiatives. Any new provision could potentially be part of any new, more streamlined set of services or single ombudsman service, as described in the options in Chapter 6. In particular we want to understand what more might be needed for buyers of new build homes, private renters, and leaseholders.

Consultation Questions

Q17: Have you encountered any gaps between different issues, ombudsmen and redress schemes in terms of their areas of responsibility?

- Yes [please explain]
- No
- Not sure

Buyers of new build homes

31. For most people buying a new build home is an exciting time and most problems can be easily put right. However, the decline of consumer satisfaction and gaps in the protections for buyers of new homes is a growing concern.⁸

32. When something goes wrong, house builders and warranty providers must swiftly fulfil their obligations to put it right. Too often we receive letters from consumers that include protracted disputes over snagging issues and cases where the home buyer does not feel that they have been treated fairly during the purchase process. Results from the 2016 Home Builders Federation Survey state that 98% of respondents reported problems with their home to their builder.⁹ It is not always clear to home buyers who they should complain to and who is responsible for putting things right. The redress system is fragmented and we are concerned there are gaps in protection. For example there needs to be more robust protection for homebuyers in the first two years after purchase.

33. We are working with the Home Builders Federation, warranty providers, lenders and the redress providers to address these issues and we want them to continue to drive improvement. We want to consider the best approach for taking this forward.

⁸ The All Party Parliamentary Group for Excellence in the built environment report, [More homes, fewer complaints](#).

⁹ Home Builders Federation. [National new home customer satisfaction survey](#), March 2017

Consultation Questions

Q18: Should purchasers of new build homes have access to an ombudsman scheme?

- Yes
- No
- Not sure

If you have answered no, please go to Question 21.

Q19: Is there an existing ombudsman scheme that is best placed to deliver this? If so which?

Q20: Should this body be statutory?

- Yes
- No
- Not sure

Q21: Aside from the issues discussed in section three of this document, are there other things we should be considering to ensure that complaints are dealt with swiftly and effectively by homebuilders?

Tenants of private landlords

34. Privately-let homes are more likely to be in serious disrepair, to present a higher risk for falls or excess cold, and to lack a working smoke alarm, than those that are owner-occupied or in the socially rented sector.¹⁰
35. Steps to protect consumers in the private rented sector have already been taken and as discussed above, all letting and managing agents are required to be a member of either the Property Ombudsman, Ombudsman Services: Property or the Property Redress Scheme. Furthermore, where landlords ask a tenant for a security deposit, they are required by law to protect it in a Government-approved tenancy deposit

¹⁰ MHCLG, English Housing Survey: [Private rented sector, 2015–16](#), July 2017, paras 4.9, 4.10, 4.13, 4.14, 4.19

scheme. If there is a dispute around the amount of deposit that should be returned at the end of a tenancy, the protection scheme will provide dispute resolution.

36. A small number of private landlords have voluntarily joined the Housing Ombudsman or one of the three private redress schemes. However, in general, tenants whose properties are let or managed directly by their landlord often have little recourse to dispute resolution or redress except via the courts. 2016 data from the Council of Mortgage Lenders¹¹, suggests that tenants of only about a third of landlords (those who are using an agent for full management services) have access to redress throughout the entire period of their tenancy.¹² In a survey conducted by Citizens Advice last year, 71% of tenants said they would find it helpful to have support when negotiating with their landlord.¹³
37. The Government has committed to changing the law to require all landlords to join a redress scheme making sure that every tenant has access to effective dispute resolution. Some complaints and cases, such as possession claims taken by landlords are not within a redress scheme's remit. Such cases will continue to be dealt with by the courts and are not within the scope of this consultation. Separate work is underway with the Ministry of Justice to explore how we might improve court processes, including considering the case for a new Housing Court.

Putting mandatory redress into action

38. We need to consider how to ensure that a landlord redress scheme is effective for both tenants and landlords. There are implementation considerations in terms of cost, consistency with agent redress, and enforcement. There are estimated to be between 2 million and 2.5 million private landlords, significantly more than the number of property agents and social landlords, and the majority are small scale, owning one or two properties. We need to consider the implications of this and in particular would like to consider:
- **Coverage:** the requirement could be restricted only to those landlords who do not employ an agent to let and manage all of their properties, potentially reducing the administration and cost burden on landlords.
 - **Scheme provider:** we are keen to understand who might be best placed to provide a redress scheme for landlords. This could be one of the existing redress schemes or a new provider such as a future Single Housing Ombudsman. The deposit protection schemes have experience in providing dispute resolution and may be able to provide some wider landlord redress services in addition to their existing functions. However, we need to ensure that we are making the redress market more streamlined and not adding additional complexity.
 - **Cost:** Given the wider range of private landlords, many of whom may never have a complaint raised against them, a flat membership fee may not be reasonable. We

¹¹ The Council of Mortgage Lenders (CML) has been part of UK Finance since July 2017.

¹² CML, [The profile of UK private landlords](#), December 2016, p40: CML estimates only a third of landlords use agents to manage all properties; as landlord are not required to belong to a redress scheme, tenants of the remainder are not guaranteed access to redress.

¹³ Citizens Advice, [If it's broke, let's fix it: Improving redress for private renters](#), July 2017, p18

want to test whether a pay per complaint model or a tiered fee structure based on portfolio size would be more appropriate.

- **Monitoring and Enforcement:** Many existing legislative requirements on private landlords are enforced by local authorities and they may be best placed to enforce this new redress requirement. However, we would be interested in understanding other options and if there are lessons to learn from different markets where there are a large number of small scale providers. An agreed set of standards could be used to benchmark practice and ensure consistency in the way that complaints are handled.
- **Penalties for non-compliance:** It is important to have a penalty that is a strong deterrent yet proportionate and fair. Possible options are financial penalties, removing the ability to use the 'section 21' no fault eviction process, or prosecution.
- **Communication:** ensuring that all landlords are aware of the requirement to belong to a redress scheme. We will shortly be bringing forward a new 'How to Let' guide to support landlords in meeting their legislative requirements but are keen to understand if there are other mechanisms to better communicate with landlords.

39. Finally, we want to understand if there are any other voluntary or intermediate measures that could be implemented to improve redress for tenants in the private rented sector ahead of any legislative changes.

Consultation Questions

Q22: Should the requirement for private landlords to belong to a redress scheme apply to all private landlords?

- Yes
- No – it should only apply to landlords that don't use an agent to provide full management services
- Don't know

Q23: Who is best placed to provide a redress scheme for private landlords?

- The existing redress schemes in the private rented sector
- The tenancy deposit schemes
- A new ombudsman, such as a single housing ombudsman
- Other [please explain]

Q24: How should redress scheme membership for private landlords be costed?

- A flat rate (and how much do you think it should cost?)
- A tiered system according to the number of properties a landlord lets?
- A pay per complaint system

- Don't know/This question isn't relevant to me

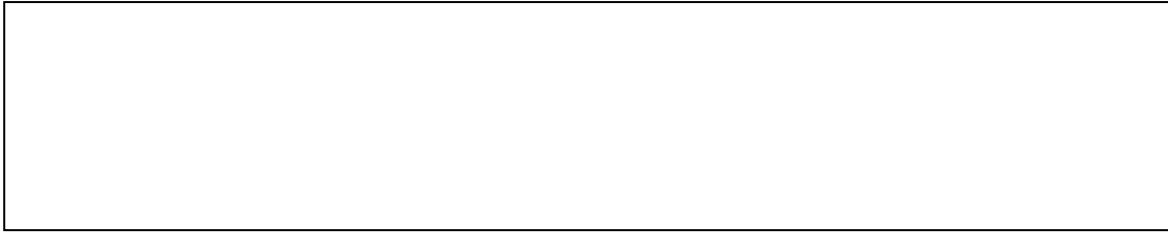
Q25: How should the requirement to be a member of a redress scheme be enforced and by whom? And are there any other markets we can learn from in order to ensure compliance by a large number of small scale providers?

Q26: What should the penalty for initial non-compliance be? If a financial penalty, what would be an appropriate level of fine? (tick as many as appropriate)

- Financial penalty [please give details on suggested level of fine in the box below]
- Criminal offence
- Banning order
- Loss of right to evict tenants under Section 21
- Civil sanction such as improvement notices or enforcement notices
- Other [Please explain]
- Don't know/This question isn't relevant to me

Q27: How can Government best ensure that landlords are aware of their requirement to belong to a redress scheme?

Q28: Are there any other voluntary or medium term measures that could be implemented to improve redress for tenants in the private rented sector ahead of any legislative changes?



Leaseholders

40. The Government's response to the consultation on 'Tackling unfair practices in the leasehold market' set out a number of steps to tackle abuses in the sector. We have also recently conducted a call for evidence to explore where managing agents, and potentially freeholders, should be subject to regulation. This may include a requirement to sign up to a code of practice.
41. Here we want to consider the particular issue of redress. Many leaseholders will have access to redress where a managing agent is employed by the freeholder, and the complaint relates to services they are responsible for delivering. However, freeholders are under no obligation to belong to a redress scheme, where there is no managing agent, or where there is a problem with services provided directly by the freeholder. In such cases leaseholders may have no access to redress other than through the courts.
42. We want to explore whether freeholders of leasehold properties should all be required to sign up to a redress scheme.

Consultation Questions

Q29: Do you think that freeholders of leasehold properties should all be required to sign up to a redress scheme?

- Yes
- No
- Not sure

6. Creating a single housing ombudsman service

43. The reforms to individual redress schemes that we have identified above could go some way to addressing the problems that stem from fragmentation in the housing redress market. However, we want to consider whether there is a need to go further.
44. We have heard concerns that there is a lack of public awareness and some confusion about which are the right organisations for consumers to approach to seek redress. For example, Ombudsman Services: Property's recent decision to withdraw from the market was in recognition of the need to streamline service provision and reduce consumer detriment.
45. This consultation will help us better understand the position in the housing sector. There is a risk in the current system that, despite best efforts of existing redress schemes, there are times when issues might fall through the gaps. This makes it harder to deliver a seamless service.
46. In other markets, such as financial services, a single ombudsman scheme operates. This has the potential not only to create a stronger brand, giving consumers a clearer sense of where to go, but also to help ombudsmen more effectively drive service improvements. This option could potentially enable data to be aggregated and trends to be more easily spotted. Efficiencies may also be possible to achieve, and could potentially make it more cost effective to fill any gaps in the system.
47. There are a number of approaches that Government could take, and which we are keen to test through this consultation:
- **A Single Housing Ombudsman** – primary legislation would ultimately be required to create an entirely new organisation to combine most of the existing housing redress functions, and potentially also new functions where there are currently gaps, into a single body;
 - **A 'Single Front Door' with greater standardisation of practices** – a single ombudsman service portal through which all housing-related complaints could be channelled. Consumers would only need to engage with one front-of-house organisation, but the operation and process of complaints by existing redress schemes could continue in the background. Within this, Government could seek to standardise practices where appropriate to minimise confusion and drive best practice;
 - **Consolidation** – in the absence of creating one single ombudsman there could be a case for rationalising the existing schemes. For example this might include retaining one ombudsman for the social rented sector with another single service for the private rented sector, leasehold and estate agents. Services could be standardised where possible and appropriate.

48. Not all of these options will necessarily be mutually exclusive and a combination of some or all of these may offer additional benefits over time. We therefore want to understand which of these options could be most effective, which areas of redress should be incorporated and whether there are other options or combinations of options we should be considering.

Consultation Questions

Q30: Should we streamline redress provision in housing, and if so, what would be the most effective model? Please explain below what you see as the benefits and challenges of the options.

- Yes - One single ombudsman scheme covering housing issues
- Yes - One ombudsman portal for housing related complaints
- Yes - One ombudsman for private housing and another for social housing
- Yes - One ombudsman for each sector of the housing market (e.g. one for home buying, one for new build homes, one for private rented sector, one for the social sector, one for leaseholders)
- No
- Other [please list]

Please provide details and explanation

Q31: If you ticked 'Yes' to one ombudsman or one portal above then which areas of redress should be incorporated? [Please tick any areas you believe should be included and explain any reasons for inclusion or exclusion]

- Social housing tenants
- Private rented sector tenants
- Leaseholders with a private sector freeholder
- Leaseholders with a social housing provider as freeholder
- Purchasers who have bought a new build home
- Purchasers and sellers of existing homes
- Park home owners
- Persons approaching their Local Authority for homelessness advice
- Persons applying to a Local Authority for social housing
- Persons applying for a tenancy with a housing association
- Other [Please Identify]

7. Consultation questions

You do not need to answer all the questions provided; please only respond to questions that are relevant to you.

About You

Q1: Are you responding (please tick one)

- As a private individual?
- On behalf of an organisation?

Q2: If you are an individual, in which capacity are you completing these questions? (please tick one)

- A tenant of social housing
- A tenant in the private rented sector
- A landlord in the private rented sector
- A leaseholder
- A freeholder
- A person that has recently bought a new home
- A person approaching their Local Authority for homelessness advice
- Other (please specify)

Q3: If you are an organisation, which of the following best describes you?

- A housing association/private registered provider
- A Local Authority registered provider
- A Local Authority that is not a provider
- An Ombudsman or redress scheme
- A developer
- A private rented sector landlord
- A private leasehold landlord organisation
- A managing agent
- A letting agent
- An estate agent
- A sector representative body
- A charity dealing with housing issues
- A government body
- A private business
- Other (please specify)

Q4: Have you ever made a complaint relating to the renting, selling or purchasing of your property, or relating to the management or maintenance of a property in which you are a renter or leaseholder?

- Yes
- No, but I know how to make a complaint.
- No, and I do not know how to make a complaint.

If no move to question 9

Q5: If you have complained about the renting, management, selling or purchasing of your property, who did you complain to? (Tick all that apply)

- Estate Agent
- Managing Agent (Leasehold)
- Letting Agent
- Landlord
- Freeholder
- Developer
- Redress scheme
- Charity (e.g. Citizens Advice, Shelter)
- Politician – local or national
- Other [please list]

Q6: Have you used any of the following housing redress schemes (as a consumer or organisation) in the past five years? (tick the one that you used most recently) If not move to question 9

- The Housing Ombudsman
- The Property Ombudsman
- Ombudsman Services: Property
- The Property Redress Scheme
- The Consumer Code (Independent Dispute Resolution Service)
- Local Government and Social Care Ombudsman (only regarding its housing-related functions)
- Other [Please identify]

Q7: If you answered Q6, how would you rate the service that you received out of 10? (With 1 being very poor and 10 being exceptional) Please give details – for example how helpful was the organisation at resolving the problem.

Q8: What do you consider to be the main problem with redress in the housing market, if any (tick up to three):

- There is no problem
- It is not clear how to raise a complaint
- It is not clear who to raise a complaint with
- There are gaps in redress
- Schemes are inconsistent in the way that they handle complaints
- It takes too long to get a decision or a complaint resolved
- It is expensive
- Complaints are not handled fairly
- Not everyone has the same access to redress
- When decisions are made they are not enforced
- Worried about the consequences of complaining
- Overlap between schemes
- Other [please explain]

Q9: Which solutions below do you think would best improve redress in the housing sector (please pick up to three)

- Better awareness from consumers of how to raise complaints
- Improvements to the working of existing redress schemes e.g. more timely complaint handling
- Better enforcement of redress scheme decisions
- Schemes all operating to the same criteria/standards
- A code of practice for all housing providers (e.g. landlords, agents, housing associations, developers) on complaints handling
- Streamlined redress provision in housing (see question 30)
- Other [please explain]

Q10: Could more be done to improve in house complaint handling for housing consumers?

- Yes [please explain]
- No
- Not sure

Q11: Are there common practices that housing consumers and businesses should be able to expect from a redress scheme, or do different sectors in housing require different practices?

- Yes - there should be common practices for consumers
- No – different sectors require different practices
- Not sure

Q12: If you believe there should be common practices that consumers should be able to expect from a housing redress scheme, what should they include? (pick as many as relevant)

- Rules relating to the types of issues consumers can complain about
- Rules relating to the timeframe in which consumers can complain to a provider
- Policies to support awareness raising
- Timeliness of complaint handling
- Cost to consumers
- Compensation levels
- Codes of practice specific to the sector
- Cost to members/ payment structures
- Transparency of decisions
- All apply
- Other [please explain]

Q13: Do you think that a redress scheme should publish decisions and the number of complaints relating to different providers? Please explain why.

- Yes
- No
- Not sure

Q14: What is a reasonable time frame for a redress scheme to deal with a complaint?

- Less than 2 weeks
- More than 2 weeks but less than a month
- More than a month but less than six weeks
- More than six weeks but less than two months
- More than two months but less than three months
- 3-6 months
- 7-12 months
- More than 12 months
- It depends on the complexity of the case

Q15: How should a redress scheme support consumers to access its scheme?

Q16: What kind of sanctions should a redress scheme have access to? (tick all that apply)

- Financial award up to £25,000
- Financial award greater than £25,000
- Expulsion from scheme
- Power to make decisions binding
- Referral to enforcement agent/ regulators
- A range of options depending on the type and size of provider
- Other [please list]

Q17: Have you encountered any gaps between different issues, ombudsmen and redress schemes in terms of their areas of responsibility?

- Yes [please explain]
- No
- Not sure

Q18: Should purchasers of new build homes have access to an ombudsman scheme?

- Yes
- No
- Not sure

If you have answered no, please go to Question 21.

Q19: Is there an existing ombudsman scheme that is best placed to deliver this? If so which?

Q20: Should this body be statutory?

- Yes
- No
- Not sure

Q21: Aside from the issues discussed in section three of this document, are there other things we should be considering to ensure that complaints are dealt with swiftly and effectively by homebuilders?

Q22: Should the requirement for private landlords to belong to a redress scheme apply to all private landlords?

- Yes
- No – it should only apply to landlords that don't use an agent to provide full management services
- Don't know

Q23: Who is best placed to provide a redress scheme for private landlords?

- The existing redress schemes in the private rented sector
- The tenancy deposit schemes
- A new ombudsman, such as a single housing ombudsman
- Other [please explain]

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Q26: What should the penalty for initial non-compliance be? If a financial penalty, what would be an appropriate level of fine? (tick as many as appropriate)

- Financial penalty [please give details on suggested level of fine in the box below]
- Criminal offence
- Banning order
- Loss of right to evict tenants under Section 21
- Civil sanction such as improvement notices or enforcement notices
- Other [Please explain]
- Don't know/This question isn't relevant to me

Q27: How can Government best ensure that landlords are aware of their requirement to belong to a redress scheme?

Q28: Are there any other voluntary or medium term measures that could be implemented to improve redress for tenants in the private rented sector ahead of any legislative changes?

Q29: Do you think that freeholders of leasehold properties should all be required to sign up to a redress scheme?

- Yes
- No
- Not sure

Q30: Should we streamline redress provision in housing, and if so, what would be the most effective model? Please explain below what you see as the benefits and challenges of the options.

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- No
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- Park home owners
- Persons approaching their Local Authority for homelessness advice
- Persons applying to a local authority for social housing
- Persons applying for a tenancy with a housing association
- Other [Please Identify]

Annex A - Glossary of terms

Alternative Dispute Resolution (ADR): A process for people to resolve disputes, which can be a cheaper and quicker alternative to the courts. Some of the ways a complaint can be handled are:

- Arbitration:** A binding process where an independent third party evaluates a dispute and decides how it should be resolved. It is not generally possible to take cases to court once they have been arbitrated upon.
- Adjudication:** Similar to arbitration, but it is generally possible to take cases to court after they have been adjudicated upon.
- Mediation or conciliation:** An independent third party helps the disputing parties to come to a mutually acceptable outcome.

Code of practice: A set of written rules which explains how people working in a particular profession should behave.

Consumer Code for Home Builders: A voluntary code of practice developed by the home-building industry and adopted by some home builders. The Consumer Code Independent Resolution Scheme provides ADR for Consumer Code members.

Consumer Code Independent Resolution Service: A home buyer can refer their complaint to the Independent Dispute Resolution Scheme after 56 calendar days have passed since first raising it with the home builder and no later than 12 months after the home builder's final response. The Independent Dispute Resolution Scheme is run by CEDR Ltd, the Centre for Effective Dispute Resolution.

Estate agent: A person who carries out estate agency work as defined in section 1(1) of the Estate Agents Act 1979.

Freehold: The freehold interest in land is a title in property that can be held in England and Wales. In practice, a residential freehold interest applies to the outright ownership of land or property for an unlimited period and applies to the majority of houses.

Freeholder: A person or organisation who owns the property and the land on which it stands for an unlimited period (the freehold).

Landlord: Either: in the private rented sector, the owner of a property who lets it to one or more tenants; or, in the leasehold sector, the owner of the freehold (or superior leasehold interest), who may also be called the lessor or freeholder.

Leasehold: A long leasehold is a form of property ownership normally used for flats that is simply a long tenancy, providing the right to occupation and use for a long period – the 'term' of the lease. This can be a period of over 21 years and the lease can be bought and sold during this term.

Leaseholder: A person who buys a leasehold property on a lease.

Letting agent: A person or company who is engaged by a private landlord to let rented homes on their behalf. A letting agent may also perform management duties on behalf of a landlord.

Managing agent: A person or company appointed by the owner (or someone operating on their behalf) to manage that property, and their role may include, for instance repairs and maintenance. Managing agents operate in both the private rented and leasehold sectors.

Ombudsman Association: The Ombudsman Association is a professional association for ombudsmen and complaint handlers but is not a complaint-handling body. Its members have to fulfil certain criteria for membership. The association has no role in the internal working of member schemes nor any influence or jurisdiction over them.

Ombudsman schemes: Independent third parties who provide ADR. Generally, to describe itself as an 'ombudsman' a redress scheme needs to be either a statutory complaints organisation, or a non-statutory body certified as a provider of ADR and holding ombudsman-level membership of the Ombudsman Association.

Ombudsman Services: Property (OS:P): A private sector, not for profit, ombudsman scheme for property agents in sales, lettings and leasehold management, as well as for chartered surveyors. The scheme is authorised by the Ministry of Housing, Communities and Local Government, the National Trading Standards Estate Agency Team and the Chartered Trading Standards Institute to provide Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015. OS:P is a full member of the [Ombudsman Association](#). It recently announced that it proposes to end its current arrangements in the property redress market in recognition of the need to streamline service provision and reduce consumer detriment. OS: P will continue to provide redress services to current members and their tenants until 6 August 2018 and will continue its enquiries functions until the end of 2018.

Property agent: A generic term for estate, letting and managing agents.

Property Redress Scheme: A private sector, not for profit, consumer redress scheme for property agents in sales, lettings and leasehold management. The scheme is authorised by the Ministry of Housing, Communities and Local Government, the National Trading Standards Estate Agency Team and the Chartered Trading Standards Institute to provide Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015.

Redress schemes: These are independent third parties who provide alternative dispute resolution (ADR) to remedy a complaint. However, a redress scheme is not necessarily an accredited ADR body and may not meet the membership criteria of the Ombudsman Association.

Tenant: A person who occupies land or property rented from a landlord.

The Property Ombudsman (TPO): A private sector, not for profit, ombudsman scheme for property agents in sales, lettings and leasehold management. The scheme is authorised by the Ministry of Housing, Communities and Local Government, National Trading Standards Estate Agency Team and the Chartered Trading Standards Institute to provide Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015. TPO

is a full member of the [Ombudsman Association](#) and has adopted the Association's [Service Standards Framework](#) (which sets out best practice for ombudsmen schemes).

Local Government and Social Care Ombudsman: Handles complaints about **councils** and some other organisations that provide local public services. It deals with complaints about councils' wider housing functions, including homelessness and housing allocations. Complaints about councils' role as social landlords, including repairs and maintenance, are handled by the Housing Ombudsman.

The Housing Ombudsman Scheme: Approved by the Secretary of State under Section 51 of, and Schedule 2 to, the Housing Act 1996. Membership of the Scheme is compulsory for social landlords (primarily housing associations who are or have been registered with the social housing regulator) and local authority landlords. A number of managing agents and private landlords are voluntary members.

Regulator of Social Housing: Is an independent regulator responsible for the regulation of registered providers of social housing. It sets the Economic and Consumer Standards that registered providers are required to meet. The Regulator proactively regulates private registered providers on their Economic Standards, but can only monitor and enforce the Consumer Standards on a reactive basis. It will only intervene on failures to comply with Consumer Standards where they have caused (or could cause) serious harm to tenants.

Annex B - Personal data

The data protection legislation is changing and a new Data Protection Act will be published in May 2018. It will give you greater powers to protect your own privacy, and place greater responsibility on those processing your data for any purpose. The following is to explain your rights and give you the information you will be entitled to under the new Act. Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.

The identity of the data controller and contact details of our Data Protection Officer

The Ministry of Housing, Communities and Local Government (MHCLG) is the data controller. The Data Protection Officer can be contacted at dataprotection@communities.gsi.gov.uk

Why we are collecting the data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

Legal basis for processing the data

Part 2 of the draft Data Protection Bill (subject to change before it becomes an Act) states that as a government department, MHCLG may process personal data is necessary for the effective performance of a task carried out in the public interest. i.e. a consultation.

With whom we will be sharing the data

We will not be sharing personal data outside of the MHCLG.

For how long we will keep the personal data, or criteria used to determine the retention period.

Your personal data will be deleted in accordance with our records retention and deletion policy which can be found on our website.

<https://www.gov.uk/government/publications/departmental-records-retention-and-disposals-policy>

Your rights, e.g. access, rectification, erasure

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right:

- a. to see what data we have about you
- b. to ask us to stop using your data, but keep it on record
- c. to have all or some of your data deleted or corrected

- d. to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

MHCLG will not send your personal data overseas.

However, you may wish to be aware that Survey Monkey stores all data on its servers in the USA. Survey Monkey are certified under the EU-US Privacy Shield Programme which we consider to be adequate to protect the type of personal data we need from you to respond to this consultation. More information can be found on their website at https://help.surveymonkey.com/articles/en_US/kb/I-am-in-Europe-How-do-SurveyMonkey-s-privacy-practices-comply-with-laws-in-the-EU

This data will not be used for any automated decision making.

This data will be stored in a secure government IT system.

Annex C - About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Ministry.

Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the [complaints procedure](#).